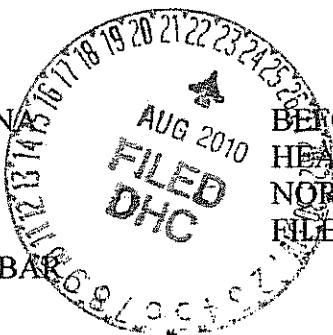


STATE OF NORTH CAROLINA  
WAKE COUNTY

NORTH CAROLINA STATE BAR  
Plaintiff



BEFORE THE DISCIPLINARY  
HEARING COMMISSION OF THE  
NORTH CAROLINA STATE BAR  
FILE NO. 10-DHC-29

vs.

**AMENDED  
ANSWER AND MOTION  
TO DISMISS**

PERRY W. MARTIN  
Defendant

**FOREWORD:**

It is difficult for me to make statements that adversely affect the position of a lady. You may have noticed that in the letter I sent to Mrs. Cloutier in response to the prior notice. It will be even more difficult with this Answer and my sworn testimony if there is a hearing. I do understand that the North Carolina State Bar filed this complaint, and that Mrs. Dodway has waived the principle of confidentiality between Attorney and client. It is necessary that I make honest derogatory statements in regard to my former client, Ms. Dodway, and I wish there was somehow this matter could be resolved in confidence. I do understand that this Complaint is a public record.

**MOTION TO DISMISS**

The Complaint filed by the client is a vicarious action on behalf of Ms. Dodway. There is no way that the State Bar has the authority to grant Ms. Dodway immunity from neither federal or state criminal actions nor civil action for damages. If there is any precedent for a pretrial conference, it seems to me that it will be useful in this case and I respectfully request your consideration of that matter.

Some of the law that is available to all of us is NCGS §15A-287(a)(1) and NCGS § 15A(a)(3), (4). There is some explanation in NCGS § 15A-286(8) and NCGS § 15A-296(A). There are 38 states that require consent in a situation such as we have in this case

and North Carolina is one of those states. A general discussion that is helpful can be found in 18 U.S.C. § 2510 and in particular part one of the criminal chapter 119. We can also find in 18 U.S.C. § 2510 et seq. the authority that the FCC used to adopt a policy that requires a reporter that tapes a telephone conversation to inform the other party that they are being taped. The possession of the communication is quite different from the publication of the same. This became a matter of public discussion when it was learned that US intelligence agencies were intercepting and using for legal action, communications received from “foreigners” and suspected terrorists. The Massachusetts 1<sup>st</sup> Circuit Court of Appeals ruled on this issue and decided to act favorable to an agency of the United States Government based on the First Amendment rights of all individuals. It seems to say to me that the government may use it even if recorded illegally. I do not think the United States Supreme Court has decided this matter. Ms. Dodway founds this Complaint upon illegally obtained evidence. If Defendant had recorded Ms. Dodway’s comments without her consent, what would have been the outcome? The answer is obvious.

#### ANSWER

1. The allegations in paragraph one of the Plaintiff’s Complaint are admitted.
2. The allegations in paragraph two of the Plaintiff’s Complaint are admitted.
3. The allegations in paragraph three of the Plaintiff’s Complaint are admitted.
4. The allegations in paragraph four of the Plaintiff’s Complaint are admitted; except the Defendant was retained on a flat fee basis which included child custody, child support, visitation, divorce from bed and board, post separation support, alimony and equitable distribution.
5. The allegations in paragraph five of the Plaintiff’s Complaint are admitted.
6. The allegations in paragraph six of the Plaintiff’s Complaint are denied; except the purported language is extracted from a tape that is quoted entirely out of context.

7. The allegations in paragraph seven of the Plaintiff's Complaint are completely denied.

FOR FURTHER ACTION AND DEFENSE THE DEFENDANT SAYS:

1. That every appointment Ms. Dodway made to see the Defendant, the case was discussed in detail and the Defendant explained what he thought was the best action to take. The Defendant filed a complaint for Ms. Dodway based on the circumstances. When Defendant advised her of a flat fee he stated that most people don't have this much cash but she could send a check if she agrees to representation. Ms. Dodway proudly explained that she could go outside and get the cash money. Ms. Dodway went outside and returned with a large sum of cash money in large bag. She did pay the Defendant \$7500.00 in cash which was the Defendant's total fee and Ms. Dodway was given a receipt of same. Defendant is unsure if anyone was with Ms. Dodway and did not suspect the presence of anyone else. Before she left the office, Ms. Dodway put her arms around the defendant unilaterally and thanked him for taking her case. Defendant did not return her unusual gesture nor did he think it was unusual for a woman that seemed to be distraught and needed to unload her burdens.

2. Ms. Dodway made it clear that the most important thing to her was prompt action on a divorce from bed and board. She explained to the Defendant that she was involved in an intimate relationship with a relative. Defendant later came to the conclusion that her boyfriend was her uncle that came to Court with her on every occasion. The uncle was her obvious means of financial income since she was not employed.

3. The Plaintiff and Ms. Dodway cannot successfully question the quality of Defendant's legal work. Defendant procured everything she asked for and this was in a letter Defendant wrote in answer to the Notice.

4. The Complaint states that the defendant's aggressive behavior took place between January 2009 through October 2009. It would appear to any normal individual

that if Ms. Dodway had any complaints they would have been made earlier after the occurrence. It was only after defendant had successfully concluded Ms. Dodway's case, except for a formal Order on Equitable Distribution. We had a professional appraisal of the business owned by her husband and his brother. Defendant was in a position to procure for Ms. Dodway one-half of what her husband owned that was acquired during the marriage. The parties agreed that the residence located in an exclusive section of Roanoke rapids, North Carolina was worth \$400,000 or more. Defendant also had satisfactory information of the value of all other property tangible and non-tangible. Defendant points out that at the time Ms. Dodway terminated his services, she had all she wanted and it would be difficult for any other lawyer to "mess it up". It is abundantly clear that Ms. Dodway took this information to the State Bar because of her jealousy over Defendant's girlfriend.

5. On the night, Ms. Dodway recorded conversation with Defendant, she called Defendant and stated that she was checking into the Jameson Inn in Roanoke Rapids and asked Defendant if he would meet her there. Defendant told her he was unable to do that but that he would see her in his office if it was important. When Ms. Dodway arrived in Defendant's office, it was obvious she was mad at Defendant as she began to ask a variety of questions. Defendant did not suspect nor was he advised that Ms. Dodway was recording his statements. Ms. Dodway's animosity towards Defendant is in the category of a "scorned lady" and there is no wrath more malicious than this.

6. If Ms. Dodway was not happy at any time during the year or more that Defendant represented her, she could have suggested that she was dissatisfied with Defendant's personal conduct.

7. It is absolutely untrue that Defendant coveted or assaulted Ms. Dodway from a personal standpoint. It is apparent that the conversation and the recordings that were made seem crude and sexual in nature but one must understand the manner in which Ms. Dodway acted toward the Defendant, the way she asked him to come to her apartment in Roanoke Rapids, and meet her in different places, the manner in which she exposed

herself physically and in conversation. She never missed a chance to make the statement that she wished Defendant did not have a girlfriend, which is my companion for life. My companion is my best friend and the faithful love of my life; yet she is paid a salary for staying with me.

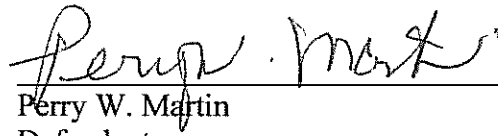
8. If the State Bar and Ms. Dodway honestly think the Defendant owes her an apology, under all the circumstances, Defendant would be glad to write such a personal letter to her and send a copy to the State Bar if she desires. The Defendant does not wish to do anything to harm Ms. Dodway, as the Defendant knows the difficult life she had as a child and the physical problems she has endured for most of her life. Also the Defendant is certain this misleading information would never have been sent to the State Bar had it not been for the persistence that her boyfriend and financier insisted.

9. Ms. Dodway talked to an employee in the Defendant's office by the name of Diane Roberts and let Ms. Roberts hear the recording. Ms. Roberts then gave the information to Defendant's girlfriend. Ms. Roberts was later released from this office for financial reasons. Ms. Dodway's conduct in this regard was clearly a violation of state and federal law and is an attempt to discredit the Defendant in a libelous manner.

WHEREFORE, THE DEFENDANT PRAYS THAT:

1. This action be dismissed by the State Bar;
2. There be no costs or fees against the Defendant;
3. For such other and further relief as deemed appropriate.
4. Please contact the Defendant for any other information that the State Bar or Ms. Dodway needs and you may expect my complete cooperation in all regards.

This the 14<sup>th</sup> day of August 2010.



Perry W. Martin

Defendant

Post Office Box 306

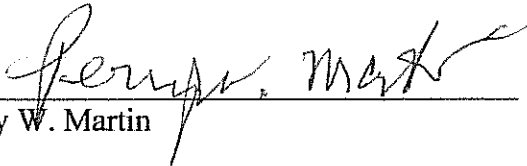
1108 E. Memorial Drive

Ahoskie, NC 27910

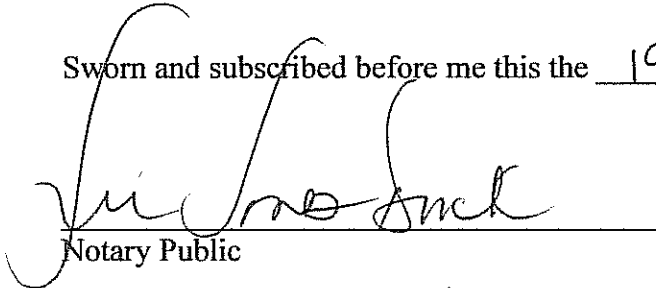
252-332-5010

## VERIFICATION

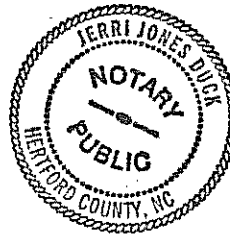
Perry W. Martin is being first duly sworn deposes and says that he is the Defendant in this action; that he has read the foregoing Amended Answer and Motion to Dismiss and that the same is true of his knowledge except as to those matters and things therein stated upon information and belief, and as to those they believe them to be true.

  
Perry W. Martin

Sworn and subscribed before me this the 19 day of August, 2010.

  
Notary Public

My Commission Expires: 7-17-2012

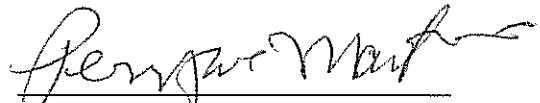


**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served upon the Deputy Counsel Margaret Cloutier, a copy of the foregoing Amended Answer and Motion to Dismiss in the above-entitled action by depositing a copy of the same in the U.S. Post Office at Ahoskie, North Carolina, postage prepaid, addressed to:

Margaret Cloutier  
Deputy Counsel  
North Carolina State Bar  
Post Office Box 25908  
Raleigh, North Carolina 27611

This the 19 day of August, 2010.



Perry W. Martin  
Defendant  
Post Office Box 306  
Ahoskie, North Carolina 27910  
State Bar: 2899  
Telephone: 252-332-5010